IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2943 of 2001

to

FIRST APPEALNo 2967 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SPECIAL LAND ACQUISITION OFFICER
Versus
MOTIBHAI NAGJIBHAI PATEL

Appearance:
First Appeal No. 2943 to 2963 of 2001

MR AD OZA, GP for the appellant.
MR AJ PATEL WITH MR JAYESH PATEL for the respondents.

First Appeal No. 2964 to 2967 of 2001
MR MUKESH PATEL, AGP for the appellants
MR AJ PATEL WITH MR JAHESH PATEL for the respondents.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 12/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this group of 25 appeals, at the instance of the State of Gujarat, invoking the aids of the provisions of section 54 of the Land Acquisition Act, 1894 (Act, for short), the challenge is against the common judgment and awards of the reference Court, dated 10.1.2000, whereby, an additional amount of Rs.500 per Are in case of irrigated lands, came to be awarded and, since in this group of matters, the lands acquired were irrigated lands, the market price came to be fixed at Rs.8 per sq. mtr.

In all, there were about 33 cases before the reference Court, out of which 25 matters are brought into this group of appeals, at the instance of the State of Gujarat, under section 54 of the Act and since, common questions are involved, arising out of common judgment and, also, the same notification issued for the same purpose, therefore, upon joint request, they are being taken up, simultaneously, for adjudication, by this common judgment.

Pursuant to the notification under section 4(1) of the Act dated 28.2.91, followed by notification dated 3.10.91 under section 6(1), agricultural lands of the claimants situated at village Kambola, Taluka:Karjan, Dist: Vadodara, came to be acquired and after observing further statutory requirements, the Land Acquisition Officer by his award dated 2.9.92 fixed the market price by way of compensation at the rate of Rs.3 per sq. mtr. (Rs.300 per Are). The original claimants requested for reference under section 18(1) of the Act, being dissatisfied by the amount awarded by the Land Acquisition Officer. The District Court, Vadodara, in a group of 33 land references, being LRC No.646 to 678 of 1993, consolidated the references and common evidence was led. The reference Court has, also, rendered a common judgment and award dated 10.1.2000 after considering the material facts, relevant evidence and appropriate propositions of law, under which each respondent in this group of appeals, being original claimants and the owners of the land, is found entitled to an amount of Rs.8 per sq.

mtr. by way of compensation, over and above the statutory benefits, which is directly brought into challenge in this group of 25 appeals under section 54 of the Act.

We have heard the learned advocates appearing for the parties. We have, dispassionately, examined the copies of the documentary evidence and viva voce evidence presented in course of the submissions before us, by the learned advocates appearing for the parties and we have, also, taken into consideration the relevant legal settings, for the purpose of considering the merits and the challenge against this group of appeals.

The principles governing the grant of compensation in relation to acquisition of land and referable to the provisions of section 23 and 24 of the Act have been, extensively, explored, substantially elucidated and virtually settled by catena of judicial pronouncements and therefore, it would not detain us any further in meticulously surfing on the principles of the same.

After having considered the material facts and relevant legal proposition and the evidence coupled with rival submissions, in our opinion, the fixity of amount at Rs.8 per sq. mtr. by way of compensation for the lands acquired of the respondents, pursuant to notification under section 4(1) of the Act dated 28.2.91 for the purpose of Narmada Main Canal situated at village Kambola in Taluka Karjan, Dist: Vadodara, we have no hesitation in finding that the impugned common judgment and the resultant awards in this group of matters, are fully justified and we are satisfied that there is no fit and appropriate case for interference in exercise of our powers under section 54 of the Act. It is also a settled proposition of law that when the appellate Court, broadly, agrees with the principles enunciated and the reasons given by the trial court or the lower forum, it would not be necessary for the appellate Court to repeat and reiterate all the reasons and grounds in greater and meticulous details. However, following aspects may be highlighted in order to strengthen the conclusion recorded by the reference Court, in this group of matters, which we are going to affirm and confirm by this common judgment.

(1) The lands acquired are agricultural lands.

(2) They were irrigated lands.

(3) The owners of the land prior to the acquisition

were taking three crops in a year.

(4) The witness of the claimants has, clearly, testified that the lands acquired were irrigated with the help of well.

(5) On behalf of the claimants, common evidence is led and one witness, Thakorebhai Laxmidas Patel at Ex.16, has, clearly, testified that :

(a) The lands are irrigated and fertile lands.

(b) Irrigation was done in the lands with the help of well.

(c) There was electric motor on the well.

(d) The distance between village Valan and Kambola is about 3 to 4 kms.

(e) He has, also, clearly testified that the boundaries of both these villages are in the radius of 2 to 4 kms. and usefulness, fertility and the nature of lands of both the villages are same.

(f) It is, also, clearly, stated by him that an award was made by the same District Court in Land Reference Case No.1483/92, in which an amount of Rs.8 per sq. mtr. came to be awarded in respect of the lands acquired in village Valan. It is, also, clearly, deposed by him that the lands of village Valan under the award of the Court came to be acquired pursuant to notification under section 4 (1) of the Act dated 22.9.88.

It will be, also, interesting to note that the witness examined on behalf of the appellant, Korabhai Ratabhai Vasava, Ex.19, who is working in the office of the Land Acquisition Officer at Unit No.7, has clearly, stated that the lands acquired are irrigated lands. He had also visited the site and the lands covered under the references. It means that the version of the claimants voiced through common witness Thakorebhai Laxmidas Patel, at Ex.16 is, significantly reinforced by the evidence of Shri Korabhai, a responsible officer of the appellant. Therefore, on this ground itself, this entire group of appeals deserves to be dismissed.

Apart from that, the claimants have placed on record the documentary evidence, which is also considered by the reference Court. For example, Ex.15 is the award in relation to the lands acquired under the Land Acquisition Case No.1483/92 to 1520/92 in village Valan and the date of notification, in that case, under section 4(1) was 22.9.88, whereas, in the present case, the date of notification, even at the cost of repetition, we would like to place on record, is 28.2.91. Despite the lapse of three years, after the award at the rate of Rs.8 per sq. mtr. in respect of the lands in village Valan, the same reference Court has assessed and awarded an amount of Rs.8 per sq. mtr. for the same type of lands to the claimants and the appellant, State of Gujarat, for the reasons best known to the authority thought it fit to challenge the same by invoking the provisions of section 54 of the Act, to which we are unable to subscribe to. Therefore, the only and only fate this group of 25 appeals should meet with is, dismissal. Accordingly, all the appeals are dismissed. The views recorded by the reference Court and the ultimate conclusion arrived at in awarding the amount to the respondents original claimants is hereby affirmed and confirmed with costs.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)
(vjn)